

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

In re:)	04-md-1603 (SHS)
OXYCONTIN ANTITRUST LITIGATION)	
<hr/>)	This document relates to:
PURDUE PHARMA L.P.,)	
THE P.F. LABORATORIES, INC., and)	Civil Action No.: 1:07 Civ. 03972
PURDUE PHARMACEUTICALS L.P.,)	(SHS)
Plaintiffs and Counterclaim Defendants,)	
v.)	
KV PHARMACEUTICAL COMPANY and)	
ACTAVIS TOTOWA LLC,)	
Defendants and Counterclaim Plaintiffs,)	
v.)	
THE PURDUE FREDERICK COMPANY,)	
THE PURDUE PHARMA COMPANY, and)	
EUROCELTIQUE S.A.,)	
Counterclaim Defendants.)	

**PURDUE'S RESPONSE TO ACTAVIS TOTOWA LLC'S MEMORANDUM OF LAW IN
SUPPORT OF ITS MOTION TO LIFT THE STAY OF THE PATENT ISSUES**

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Laboratories, Inc., Purdue Pharmaceuticals L.P.,
The Purdue Frederick Company, The Purdue
Pharma Company, and Euroceltique S.A.*

Purdue does not oppose Actavis' request to lift the stay of the patent issues in this action. In fact, Purdue wrote to the Court on February 12, 2008 to request a status conference to discuss how to proceed on all of the pending patent infringement actions before the Court. As that letter explained, many of the defendants, including Actavis, are still subject to the 30 month stay in the FDA, which is automatically granted by the Hatch-Waxman Act, 21 U.S.C. § 355(j), when suit is filed within 45 days after receiving notice of an ANDA filing. The first of those stays will expire on June 6, 2009. There is no stay in the *Mallinckrodt* action, pursuant to this Court's May 15, 2007 Order (*Mallinckrodt* Docket Item No. 34).

In its Motion to Lift the Stay of the Patent Issues, Actavis argued that this Court should "expedite a resolution of the patent issues." (Actavis' March 14, 2008 Motion to Lift the Stay of the Patent Issues, p. 3). Purdue agrees. However, Actavis' request rings hollow because Actavis has failed to provide any discovery to Purdue to date. Actavis can expedite the resolution of this action by providing discovery now, before the Court acts, with respect to (1) its complete ANDA; (2) documents relating to the preparation of its ANDA; (3) the business and technical documents related to the development of its proposed generic; and (4) Actavis' knowledge of and study of Purdue's patents and the prior art to those patents. As ordered by the Court in the previous phase of this litigation, Purdue has been diligent in providing complete document discovery to Actavis, including all discovery taken in Purdue's previous actions against Boehringer Ingelheim and Endo.

Once Actavis, KV and Mallinckrodt provide document discovery, Purdue will require a period for fact depositions, followed by the preparation of expert reports, expert discovery, and pretrial submissions for the bench trial in these actions on any issues that remain to be tried.

Purdue believes that these actions can be ready for trial in the January-February 2009 time frame, which will give the Court a number of months to decide the remaining issues before the first of the 30 month periods ends, in June 2009.

Purdue respectfully requests that the Court schedule a status conference to discuss how to proceed to resolve all of the pending patent infringement actions.

Dated: March 28, 2008

Respectfully submitted,

By: s/ Robert J. Goldman
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CERTIFICATE OF SERVICE

I, Robert J. Goldman, hereby certify that on March 28, 2008, I caused to be electronically filed **Purdue's Response To Actavis Totowa LLC's Memorandum Of Law In Support Of Its Motion To Lift The Stay Of The Patent Issues** with the Clerk of the Court via CM/ECF. Notice of this filing will be sent by e-mail to all parties by operation of the court's electronic filing system. Parties may access this filing through the court's CM/ECF System.

s/ Robert J. Goldman

Robert J. Goldman